

## ARTICLE III. - TOBACCO

### DIVISION 1. - GENERALLY

#### Sec. 42-81. - Smoking on county-controlled property.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Place* means any enclosed indoor areas, facilities or spaces under the control of the county, or any of its designated agencies or departments, or owned by the county and which may be leased, rented or occupancy granted to any individual or organization, for whatever purpose such space may be used (or remain idle), including offices, hallways and other areas, whether or not separated from adjoining areas.

*Smoke* or *smoking* means the carrying, holding or possession of a lighted pipe, cigar or cigarette of any kind, or any lighted smoking equipment, or the lighting or emitting or exhaling the smoke of such devices.

- (b) *Declaration of policy and intent.* The board of county commissioners finds and declares that the smoking of tobacco, or any other weed or plant in enclosed places is a substantial danger to the health of others and that smoking in such areas should be prohibited. The board of county commissioners further declares its intention to protect the public health from such hazards in buildings owned or leased by the county, including those enclosed areas which are leased or otherwise occupied by tenants in buildings owned by the county.
- (c) *Smoking prohibited.* It shall be unlawful within the jurisdiction of the county for any person to smoke in any place. There are no enclosed indoor areas, facilities or spaces controlled by the county where smoking is permitted.
- (d) *Signs and notices.* The county manager or his designee will require all county agencies to post no smoking signs in conspicuous places, including all county building entrances and in places which have been designated smoking areas in the past and/or which places are likely to be used by smokers, such as restrooms, lounge areas, stairwells, closets, etc.
- (e) *Role of the county's clean air compliance officer.* The clean air compliance officer shall make reasonable efforts to secure compliance with the provisions of this section.
- (f) *Penalty for violation of section; prosecutions.* Violation of this section shall be a misdemeanor and shall be punished by a fine not exceeding \$100.00. Prosecutions under this section may be initiated either by citation or complaint.

(Ord. No. 93-5, §§ II—VII, 3-10-93)

**State Law reference—** Clean indoor air, NMSA 1978, § 24-16-1 et seq.

Secs. 42-82—42-110. - Reserved.

### DIVISION 2. - SALES RESTRICTED

#### Sec. 42-111. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Tobacco product* means a product made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested

by any other means, including cigars, cigarettes, chewing tobacco, pipe tobacco, snuff, e-cigarettes or electronic nicotine delivery systems.

(Ord. No. 91-12, § 3, 9-17-91)

**Cross reference**— Definitions generally, § 1-2.

Sec. 42-112. - Penalty for violation of division; exceptions to prosecution.

Except as stated in this division, violations of this division are punishable as provided in section 1-6. A violation by an employee or agent shall not be prosecuted if the employer affirmatively demonstrates that the employer has, since the violations, initiated an effective system to prevent violations of the prohibitions. The exception provided in this section applies only once to an employer during any two-year period.

(Ord. No. 91-12, § 7, 9-17-91)

Sec. 42-113. - Tobacco control.

- (a) The fire chief's office of the county fire department shall be the lead agency coordinating the efforts of other county departments to ensure the following:
  - (1) Provision of signs shall be the responsibility of retailers authorized to sell tobacco products. The signs shall read as follows, "IT IS ILLEGAL FOR A PERSON UNDER 21 YEARS OF AGE TO PUCHASE TOBACCO PRODUCTS."
  - (2) Investigation and enforcement of the provisions of this division.
- (b) The environmental health department, the county sheriff's department, and the zoning enforcement shall assist and cooperate with the fire chief's office in the enforcement of this division.
- (c) The sheriff's department or their designated agents may issue citations for violations of the provisions contained in this section in order to enforce this division.

(Ord. No. 91-12, § 4, 9-17-91)

Sec. 42-114. - Display of signs.

A retailer shall display prominently in the place where tobacco products are sold a sign that meets the requirements of section 42-113(a)(1).

(Ord. No. 91-12, § 5, 9-17-91)

Sec. 42-115. - Sale or distribution to individuals under the age of 21 and in certain other cases.

- (a) A person shall not knowingly, intentionally or negligently sell, offer to sell, barter or give a tobacco product to a person under the age of 21.
- (b) A retailer or an employee of a retailer shall not knowingly, intentionally or negligently fail to verify the age of a consumer purchasing tobacco products.
- (c) Evidence of the age and identity of a person attempting to procure tobacco products in person shall be shown by a valid document that contains a picture of that person and is issued by a federal, state, county, municipal, tribal or foreign government, including a motor vehicle driver's license or identification card.

- (d) A tobacco product shall only be sold in an original manufacturer-sealed package, except for individually sold cigars or loose leaf pipe tobacco.

(Ord. No. 91-12, § 6(A), (D), 9-17-91)

Sec. 42-116. - Maintaining vending machines.

- (a) A person or an employee or agent of that person shall not maintain any device that automatically dispenses tobacco products, except in certain places.
- (b) Tobacco products may be sold through vending machines only:
  - (1) Where the machine is in an age-controlled location where persons under 21 years of age are not permitted.
- (c) An owner of a device which violates this section shall remove such device within three months of the effective date of January 1, 2021.

Ord. No. 91-12.

- (d) No person shall be liable under this section for more than one violation in one day.

(Ord. No. 91-12, § 6(B), (D), 9-17-91)

Sec. 42-117. - Sampling.

It shall be unlawful for any person to engage in distributing free samples of a tobacco product in or on any public street, sidewalk or park, within 500 feet of any youth center or youth activities. No person shall be liable under this section for more than one violation in one day.

(Ord. No. 91-12, § 6(C), (D), 9-17-91)

Secs. 42-119—42-140. - Reserved.